

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND
FINDINGS BY THE SPB COMPLIANCE REVIEW UNIT OF
THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of March 3, 2014, carefully reviewed and considered the attached Compliance Review Report of the California Department of Fish and Wildlife submitted by SPB's Compliance Review Unit.

WHEREAS, the Report was prepared following a baseline review of the California Department of Fish and Wildlife's personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.


SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE FINDINGS AND RECOMMENDATIONS DECEMBER 11, 2013

Examinations

During the time period under review, from May 1, 2011 through October 31, 2012, the California Department of Fish and Wildlife (CDFW) conducted 30 examinations. The SPB reviewed seven of these examinations, which are listed below:

Classification Title	Examination Type	Examination Component(s)	No. of Eligibles
Assistant Chief Counsel	Promotional	Education and Experience ¹	5
CEA I, Assistant Deputy Administrator	Supplemental	Statement of Qualifications ² and Interview	9
CEA II, Assistant Deputy Director, Administration	Supplemental	SOQ and Interview	16
Fish and Game Lieutenant (Supervisor)	Promotional	Training and Experience ³	29
Fish and Game Warden	Open	Written	22

¹ In an Education and Experience examination, one or more raters scores and ranks applicants based upon the applicant's Standard 678 application form. The raters use a predetermined rating scale that includes years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

² In a Statement of Qualifications (SOQ) examination, applicants submit a written summary of their qualifications and experience related to a published list of Desired Qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores, and rank the competitors on a list.

³ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

Classification Title	Examination Type	Examination Component(s)	No. of Eligibles
Fish Hatchery Manager I	Open	Qualifications Appraisal Panel ⁴	14
Tractor Operator	Open	Performance ⁵	24

FINDING NO. 1 – CDFW Accepted Applications That Arrived After the Final Filing Deadline and Failed to Indicate the Receipt Date of Other Applications

California Code of Regulations, title 2, section 174 requires timely filing of applications:

All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement....

Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the State Personnel Board offices (or the appropriate office of the agency administering the examination) by the date specified.

Among the seven reviewed examinations, 35 applications were accepted by CDFW that, according to the date stamp, arrived after the final filing deadline stated on the examination announcements (3 of 16 for CEA II, 1 of 5 for Assistant Chief Counsel, 14 of 24 for Tractor Operator, 2 of 29 for Fish and Game Lieutenant, and 12 of 14 for Fish Hatchery Manager I). Four applications that were accepted for examinations bore no date stamp at all (1 of 16 for CEA II, 1 of 24 for Tractor Operator, and 2 of 14 for Fish Hatchery Manager I), making it impossible for the SPB to determine whether or not these applications had been submitted by the legal date.

Therefore, it is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations CDFW submit to the Board a written corrective action plan that addresses the changes the department will implement to ensure

⁴ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

⁵ A Performance Exam requires the applicant to demonstrate skills and knowledge that are required in the classification through a series of job-related tasks.

conformance with the requirements of California Code of Regulations, title 2, section 174.

Appointments

During the compliance review period, CDFW made 1,138 civil service appointments. The SPB reviewed 43 of those appointments, which are listed below:

Classification	Appointment Type	Tenure & Time Base	No. of Appointments
Accountant Trainee	List	Permanent/Full-time (FT)	6
Assistant Information Systems Analyst Specialist	List	Permanent/FT	4
Fish & Game LT-SP	List	Permanent/FT	4
Fish & Wildlife Interpreter II	List	Permanent/FT	1
Motor Vessel Engineer	List	Permanent/FT	2
Personnel Specialist	List	Permanent/FT	2
Research Analyst I/GIS	List	Permanent/FT	1
Staff Information Systems Analyst Specialist	List	Permanent/FT	5
Wildlife Habitat Specialist II	List	Permanent/FT	1
Environmental Scientist	Transfer	Permanent/FT	3
Fish & Wildlife Technician	Transfer	Permanent/FT	3
Management Services Tech	Transfer	Permanent/FT	2
Public Land Management Specialist IV	Transfer	Permanent/FT	1
Personnel Specialist	Transfer	Permanent/FT	1
Senior Hatch Supervisor	Transfer	Permanent/FT	1
Systems Software Specialist II (Technical)	Transfer	Permanent/FT	1
Tractor Operator	Transfer	Permanent/FT	1
Scientific Aid	Temporary Authorized (TAU)	Temporary/Part-time (PT)	3
Special Consultant	TAU	Temporary/PT	1

FINDING NO. 2 – CDFW Did Not Retain Applications for All Appointments Reviewed

In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment

practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.)

CDFW failed to maintain applications for 14 of the 43 appointments. Therefore, it is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations CDFW submit to the Board a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of Government Code section 12946.

Equal Employment Opportunity (EEO)

The SPB reviewed CDFW's EEO program that was in effect during the compliance review period.

FINDING NO. 3 – CDFW's EEO Officer Does Not Report Directly to the Department's Director

The EEO Officer must report directly to, and be under the supervision of, the director of the department. (Gov. Code, § 19795(a).) CDFW's EEO Officer reports to the Branch Chief of the human resources division rather than the director of CDFW. CDFW must therefore reorganize its organizational structure so that the EEO Officer reports directly to the department's director. CDFW must implement this organizational change within 60 days of the Board's Resolution adopting these findings and recommendations, and submit to the SPB a written report of compliance that includes a copy of the revised organizational chart and duty statement of the appointed EEO Officer.

FINDING NO. 4 – CDFW's Written Responses to Complaints of Discrimination Are Untimely

Each appointing power must establish a written internal discrimination complaint process that provides a complainant review of and a written response to his or her allegations of discrimination. (Cal. Code Regs., tit. 2, § 64.3, subd. (a).) The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

Of the seven EEO discrimination complaints filed with CDFW during the compliance review period, five were not resolved within 90 days. CDFW did not inform the complainants regarding the reason(s) it was unable to issue a decision within that time period. CDFW has subsequently written to the SPB: "Currently, DFW is not providing the referenced 90 day letters. However, we intend to start doing so effective immediately."

The SPB recommends that CDFW institute procedures that ensure complainants are timely informed in writing of the reasons CDFW is unable to comply with the 90-day response rule. It is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations CDFW submit to the Board a written report of compliance that includes copies of any relevant documents.

DEPARTMENTAL RESPONSE

CDFW was provided a copy of the initial report to review. A copy of CDFW's response is attached as Attachment 1.

SPB REPLY

Regarding Finding No. 1, CDFW plans to revise its examination application acceptance policy to ensure adherence to statute and regulation. Regarding Finding No. 2, CDFW's Human Resources Branch will remind managers to maintain and preserve appropriate appointment records for two years. CDFW must implement these actions within 60 days of the Board's Resolution adopting these Findings and Recommendations, and submit to the SPB a written report of compliance, i.e., copy of the new policy, procedure, or memorandum.

Regarding Finding No. 3, CDFW has changed the reporting status of the EEO Officer to reflect a direct reporting relationship to the Secretary. Within 60 days of the Board's Resolution adopting these Findings and Recommendations, CDFW must submit to the SPB a revised organization chart and EEO Officer's duty statement as a written report of compliance.

Regarding Finding No. 4, CDFW reports that efforts are underway to improve its processing of internal complaints of discrimination. CDFW must implement these

actions within 60 days of the Board's Resolution adopting these Findings and Recommendations, and submit to the SPB a written report of compliance, i.e., copy of the new policy, procedure, and/or sample letter to complainant.

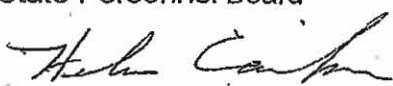
The SPB thanks CDFW for their cooperation and assistance during the compliance review period.

Memorandum

Attachment 1

Date: November 25, 2013

To: James L. Murray, Chief,
Compliance Review Division
State Personnel Board


From: Helen Carriker, Deputy Director
Administration Division

Subject: Compliance Review Report Response to Findings and Recommendations

The Department of California Fish and Wildlife (CDFW) Human Resources Branch (HRB) has completed a thorough review of the State Personnel Board's Compliance Review Report. Below are the actions CDFW will take to ensure the Department is in compliance and maintains the integrity of the State of California's merit process.

Finding No. 1 – CDFW accepted applications that arrived after the final filing deadline and failed to indicate the receipt date of other applications.

CDFW Response:

The examination application will be date stamped upon arrival. The envelope will not be removed from the application. The Analyst will then ensure all applications have a date stamp. If the date stamp on the application is dated after the Final Filing Date (FFD), the analyst will then ensure the postmark date is not after the FFD. If the application is not date stamped by the FFD and the postmark is after the FFD, the applicant will receive a notice that he/she did not submit the application in a timely manner.

Finding No. 2 – CDFW did not retain applications for all appointments reviewed.

CDFW Response:

CDFW (HRB) will send an annual memorandum to all managers and supervisors reminding them of the requirement to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created.

Finding No. 3 – CDFW's EEO Officer Does Not Report Directly to the Department's Director.

CDFW Response: Effective immediately, the EEO Officer will report directly and under the supervision of the CDFW Chief Deputy Director, which will include periodic meetings with the Director. This will ensure the visibility and the level of support needed to ensure that the Department's EEO efforts are appropriately addressed and implemented at all levels of the Department. The organizational chart and duty statement has been updated to reflect this. Direct supervision by the CDFW Chief Deputy Director will begin immediately.

Finding No. 4 – CDFW's Written Responses to Complaints of Discrimination Are Untimely.

CDFW Response: CDFW has established and implemented a written internal complaint process where it provides a complainant review of and a written response to his/her allegations of discrimination within 90 days of the complaint being filed. CDFW has also began the procedure of informing the complainant in writing within 90 days of the complaint being filed, of the reason of the delay, if the Department is unable to issue a decision within the prescribed time period. Action has already been taken in reference to establishing and implementing written procedures as well as issuing a written response to the complainant of the reason for delay if the investigation has not been completed within 90 days.